Agenda - Council – July 21, 2010

Report - Standing Policy Committee on Property and Development – July 6, 2010

Item No. 1 Vacant and Derelict Buildings – Taking Title to Properties
eFile EX

STANDING COMMITTEE RECOMMENDATION:

On July 14, 2010, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submits the following to Council:

1. That the Taking Title to Vacant and Derelict Buildings By-law, contained in the Winnipeg Public Service Report dated July 2, 2010 as "Attachment A", which would replace Part 2 of the Vacant and Derelict Buildings By-law No. 35/2004, be given first reading.

2. That pursuant to subsection 191(2) of The City of Winnipeg Charter, the Executive Policy Committee be directed to conduct a public hearing in respect of the proposed By-law.

3. That the Proper Officers of the City be authorized to do all things necessary to implement the intent of the foregoing.

Report - Standing Policy Committee on Property and Development – July 6, 2010

DECISION MAKING HISTORY:

EXECUTIVE POLICY COMMITTEE RECOMMENDATION:

On July 14, 2010, the Executive Policy Committee concurred in the recommendation of the Standing Policy Committee on Property and Development and submitted the matter to Council.

STANDING COMMITTEE RECOMMENDATION:

On July 6, 2010, the Standing Policy Committee on Property and Development concurred in the recommendation of the Winnipeg Public Service and submitted the matter to the Executive Policy Committee and Council.

Also on July 6, 2010, the Standing Policy Committee on Property and Development received a presentation from Dale Harik, North End Community Renewal Corporation dated July 6, 2010, in support of the matter.

STANDING COMMITTEE RECOMMENDATION:

On June 8, 2010, the Standing Policy Committee on Property and Development granted the Winnipeg Public Services an extension of time to July 6, 2010 to report back with recommendations to accelerate the City's ability to take title of derelict buildings without compensation.

On February 2, 2010, the Standing Policy Committee on Property and Development requested the Winnipeg Public Services to report back within 120 days with recommendations to accelerate the City's ability to take title of derelict buildings without compensation.

COMMUNITY COMMITTEE RECOMMENDATION:

On January 12, 2010, the Lord Selkirk-West Kildonan passed the following motion:

WHEREAS vacant and derelict buildings are a blight and large contributors to the decline of any neighbourhood;

Report - Standing Policy Committee on Property and Development – July 6, 2010

DECISION MAKING HISTORY: (continued)

COMMUNITY COMMITTEE RECOMMENDATION: (continued)

AND WHEREAS there are currently over 600 vacant and derelict buildings in the City of Winnipeg;

AND WHEREAS the Vacant and Derelict Building Bylaw No. 35/2004 came into force and effect July 1, 2004 and there has only been one (1) property seized under The City of Winnipeg Charter since it came into effect:

AND WHEREAS the current process to take title to derelict buildings pursuant to the City of Winnipeg Charter contains numerous steps required by the Department, which can take approximately 450 days;

AND WHEREAS there are vacant and derelict buildings which have been in their present state for several years;

AND WHEREAS no responsible home/building owner needs to be concerned with an aggressive and/or expedited revised Vacant and Derelict Building Bylaw,

THEREFORE BE IT RESOLVED that the Planning, Property and Development Department together with the Legal Services Division, Corporate Support Services, be requested to streamline the process pursuant to The City of Winnipeg Charter and reduce the time to take title to derelict buildings without compensation to 90 days,

and forwarded the matter to the Standing Policy Committee on Property and Development

Further, on January 12, 2010 Garry Solkoski, Housing and Existing Buildings Administrator, Planning, Property and Development Department, submitted a document outlining steps and a sequence of events flow chart as it relates to taking title to vacant and derelict buildings.

On December 7, 2009, the Lord Selkirk-West Kildonan Community Committee requested the Housing and Existing Buildings Administrator, Planning, Property and Development Department, to attend the meeting of the Lord Selkirk-West Kildonan Community Committee on January 12, 2010 to address questions related to boarded up buildings located in the north and central areas of Winnipeg.

ADMINISTRATIVE REPORT

Issue: **Taking Title to Vacant And Derelict Buildings By-Law**

Critical Path: Standing Policy Committee on Property and Development – Executive Policy Committee - Council

AUTHORIZATION

Author	Department Head	CFO	CAO
G. Solkoski	D. Joshi	J Ferrier	G Laubenstein

RECOMMENDATIONS

1. That the attached Taking Title to Vacant and Derelict Buildings By-law (Attachment A), which would replace Part 2 of the Vacant and Derelict Buildings By-law No. 35/2004, be given first reading.

2. That, pursuant to subsection 191(2) of *The City of Winnipeg Charter*, Executive Policy Committee be directed to conduct a public hearing in respect of the proposed By-law.

3. That the proper Officers of the City be authorized to do all things necessary in order to implement the intent of the foregoing.

REASON FOR THE REPORT

In order to streamline the process by which the City can take title to vacant and derelict buildings, the Manitoba Legislature recently amended Part 5, Division 4 of *The City of Winnipeg Charter*. It is necessary to enact a new By-law to take advantage of the new process.

Subsection 191(2) of *The City of Winnipeg Charter* requires that, before the City can enact a by-law that implements the process set out in the *Charter* for taking title to vacant and derelict buildings without compensation, a public hearing must be held by Executive Policy Committee.

IMPLICATIONS OF THE RECOMMENDATIONS

Recent amendments to Part 5 Division 4 of *The City of Winnipeg Charter* by the Province were a response to the City's request to streamline the process by which the City took title to vacant and derelict buildings. A time-line setting out the new process with some estimates as to the length of time needed to complete each step is attached (Attachment B).

In order to take title to new vacant and derelict buildings, the City must enact a new By-law that takes advantage of the new streamlined process set out in the *Charter*. The attached By-law:

- authorizes designated employees and the Standing Policy Committee on Property and Development to utilize the new process;
- adopts the minimum time frames permitted by the *Charter* for appeals, for bringing properties into compliance and for other steps in the process as the time frames that will be used by the City in the TTWC process;
- creates forms for Preliminary Derelict Building Notices, Second Notices of a Preliminary Derelict Building Notice and Statutory Declarations that are referred to in the *Charter*.

HISTORY

On April 21, 2004, Council adopted the recommendation of Executive Policy Committee from its public hearing held April 7, 2004, to regulate the condition and maintenance of all vacant buildings. On May 19, 2004, Council enacted the Vacant and Derelict Buildings By-law No. 35/3004, which came into effect on July 1, 2004.

On June 17, 2010, Royal Assent was given to Bill 3, *The City of Winnipeg Charter Amendment and Municipal Amendment Act (Derelict Property)* which amended Part 5, Division 4 of *The City of Winnipeg Charter*.

FINANCIAL IMPACT

Financial Impact Statement **Date:** June 28, 2010

Project Name:

Taking Title to Vacant And Derelict Buildings By-Law

COMMENTS:

The recommendations contained in this report include that the attached Taking Title to Vacant and Derelict Buildings By-law (Attachment A), which would replace Part 2 of the Vacant and Derelict Buildings By-law No. 35/2004, be given first reading and that, pursuant to subsection 191(2) of The City of Winnipeg Charter, Executive Policy Committee be directed to conduct a public hearing in respect of the proposed By-law.

There are no financial implications associated with these recommendations.

"Original Signed By"
Mike McGinn, CA
Manager of Finance

CONSULTATION

In preparing this report there was consultation with:

- **By-law Enforcement Services Division, Community Services Department**
- **Legal Services Department**
- **Office of the City Clerk**

SUBMITTED BY

Department:	Planning, Property and Development
Division:	Housing and Existing Buildings Branch
Prepared by:	Garry Solkoski
Date:	July 2, 2010
File No.	o:\reports directive\development and inspections\housing-existing buildings\taking title rpt july 2-10.doc


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timeline taking title june 30 2010 .doc

THE CITY OF WINNIPEG

BY-LAW NO.

A By-law of THE CITY OF WINNIPEG to establish a process for taking title to vacant and derelict buildings pursuant to Part 5, Division 4 of *The City of Winnipeg Charter*.

WHEREAS Division 4 of Part 5 of *The City of Winnipeg Charter* provides for a process by which the City of Winnipeg may take title to vacant and derelict buildings;

AND WHEREAS this process was amended by the enactment of *The City of Winnipeg Charter Amendment and Municipal Amendment Act (Derelict Property);*

AND WHEREAS it is necessary to enact a By-law establishing a process for issuing preliminary derelict building orders, second notices and derelict building certificates in respect of derelict properties in order to take advantage of these provisions in *The City of Winnipeg Charter*;

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

Short title

1 This By-law may be cited as the Taking Title to Vacant and Derelict Buildings By-law.

Definitions

2 In this By-law and for the purposes of Part 5 Division 4 of *The City of Winnipeg Charter*

"derelict building by-law" means the Vacant Buildings By-law;

"derelict property" has the same meaning as in section 190 of *The City of Winnipeg Charter*;

"Designated Committee" means the Standing Policy Committee on Property and Development;

"designated employee" means the Chief Administrative Officer of the City and any employee of the City to whom he or she has delegated an authority granted or duty imposed under this By-law.

Designated employee authorized to act

3 A designated employee is hereby authorized to take actions or measures permitted or required to be taken by the City of Winnipeg under Part 5, Division 4 of *The City of Winnipeg Charter* in order for title to be issued vesting a derelict property in the City's name.

Time frames

4 The minimum time frames set out in Part 5, Division 4 of *The City of Winnipeg Charter* are hereby established as the applicable time frames for filing any appeals and for bringing properties into compliance with the Vacant Buildings By-law and for any other purpose referred to in that Division.

Role of Designated Committee
5 The Designated Committee is hereby authorized to hear appeals that are permitted under Part 5, Division 4 of *The City of Winnipeg Charter* and to issue Derelict Building Certificates.

Form and content of PDBO
6(1) A Preliminary Derelict Building Order must be issued in the form set out in Schedule "A" to this By-law and must include:

(a) the legal description of the property;

(b) a statement that the property is a derelict property; and

(c) a statement that it may be transferred to the City of Winnipeg if it is not brought into compliance with the Vacant Buildings By-law.

Form and content of second notice of PDBO
6(2) The second notice of a Preliminary Derelict Building Order must be issued in the form set out in Schedule "B" to this By-law and must include:

(a) the legal description of the property;

(b) a statement that the property continues to be a derelict property; and

(c) a statement that, if it is not brought into compliance with the Vacant Buildings By-law within 60 days, title to the above-noted property may be issued in the name of the City of Winnipeg and the person being served may be forever estopped and debarred from setting up any claim to or in respect of the property.

Application for Derelict Building Certificate
7 When applying for a Derelict Building Certificate, a designated employee must provide to the Standing Policy Committee on Property and Development a completed and sworn or affirmed statutory declaration in the form set out in Schedule "C" to this By-law.

Schedules form part of By-law
8 Schedules A. B and C, attached hereto, form part of this By-law.

Part 2 of Vacant and Derelict Buildings By-law No. 35/2004 repealed
9 Part 2 of Vacant and Derelict Buildings By-law No. 35/2004 is hereby repealed.

DONE AND PASSED, this day of , 2010.

_____
Mayor

_____
City Clerk

Approved as to content:

_____
Director of Planning, Property and Development

Approved as to form:

_____
For City Solicitor/Director of Legal Services

SCHEDULE A
TO THE TAKING TITLE TO VACANT AND DERELICT BUILDINGS BY-LAW

PRELIMINARY DERELICT BUILDING ORDER

RE: (legal description of property)

commonly known as _____ (address) in the City of Winnipeg:

WHEREAS the registered owner of the above-noted property has been found guilty of contravening a derelict building by-law, namely, the Vacant Buildings By-law, on _____ (date);

AND WHEREAS I am satisfied on the basis of the inspection of the above-noted property by an enforcement officer with authority to enforce the Vacant Buildings By-law that the property continues to be contravention of the Vacant Buildings By-law;

THEREFORE, TAKE NOTICE THAT
The above-noted property is a derelict property as defined in *The City of Winnipeg Charter*.

The above-noted property may be transferred to the City of Winnipeg if it is not brought into compliance with the Vacant Buildings By-law within 90 days after this Order has been served on the registered owner.

AND FURTHER TAKE NOTICE THAT

You have a right to appeal this Order to the Standing Policy Committee on Property and Development. Your appeal must be in writing and must be received by the Office of the City Clerk, Council Building, 510 Main Street, Winnipeg, Manitoba, R3B 1B9 within 90 days after this Order has been served on you.

If you have any questions concerning this Order or the consequences of failing to bring the property into compliance with the Vacant Buildings By-law No. 35/2004, please contact _____ at 986-_____.

_____ _____
Designated Employee Date

SCHEDULE B
TO THE TAKING TITLE TO VACANT AND DERELICT BUILDINGS BY-LAW

SECOND NOTICE OF A PRELIMINARY DERELICT BUILDING ORDER

RE: (legal description of property)

commonly known as _____ (address) in the City of Winnipeg:

WHEREAS a Preliminary Derelict Building Order in respect of the above-noted property was issued on _____ (copy attached);

AND WHEREAS more than 30 days have passed since all the persons required by *The City of Winnipeg Charter* to be served with a copy of the Preliminary Derelict Building Order were served with a copy of the Order;

AND WHEREAS the property continues to remain a derelict property in that it is not in compliance with the Vacant Buildings By-law;

THEREFORE, TAKE NOTICE THAT
Unless the above-noted property brought into compliance with the Vacant Buildings By-law within 60 days after this Second Notice is served on the registered owner of the property and the interested persons on whom it is required to be served

- Title to the above-noted property may be issued in the name of the City of Winnipeg; and
- You may be forever estopped and debarred from setting up any claim to or in respect of the property.

You have a right to appeal the Preliminary Derelict Building Order or the time period set out in it for bringing the property into compliance with the Vacant Buildings By-law No. 35/2004 to the Standing Policy Committee on Property and Development. Your appeal must be in writing and must be received by the Office of the City Clerk, Council Building, 510 Main Street, Winnipeg, Manitoba, R3B 1B9 within 60 days after this Second Notice has been served on you.

If you have any questions concerning this Order or the consequences of failing to bring the property into compliance with the Vacant Buildings By-law No. 35/2004, please contact _____ at 986-_____.

_____ _____
Designated Employee Date

Attachment: Preliminary Derelict Building Order

SCHEDULE C
TO THE TAKING TITLE TO VACANT AND DERELICT BUILDINGS BY-LAW

STATUTORY DECLARATION

RE: (legal description of property)

commonly known as _____ (address) in the City of Winnipeg,

I, _____, a Designated Employee for the purposes of the Vacant Buildings By-law,

MAKE OATH (OR AFFIRM) AND SAY THAT

A Preliminary Derelict Building Order in respect of the above-noted property was issued on _____ (date) and a Second Notice of a Preliminary Derelict Building Order in respect of the above-above-noted property was issued on _____ (date). Both the Preliminary Derelict Building Order and the Second Notice of a Preliminary Derelict Building Order have been registered at the land titles office and have been served in accordance with Part 5 Division 4 of *The City of Winnipeg Charter.*

The time period for bringing the above-noted property into compliance with the Vacant Buildings By-law provided in the Preliminary Derelict Building Order and the Second Notice of a Preliminary Derelict Building Order has expired.

The time period within which an appeal against the Preliminary Derelict Building Order may be taken has expired or, if an appeal against the Order was taken, the appeal has been decided and the decision either (a) confirmed the Order or (b) varied the Order but the person has not complied with the Order as varied.

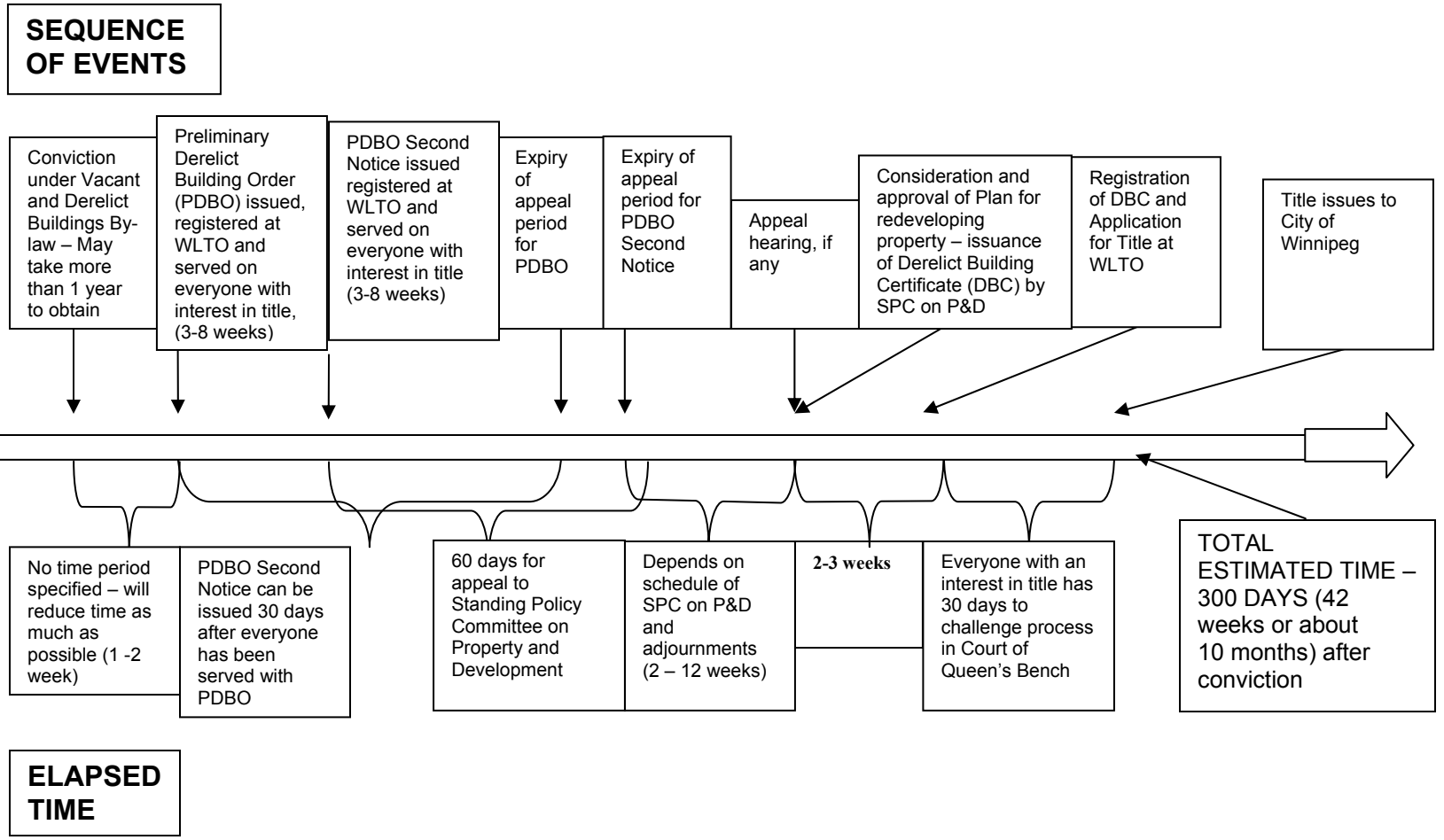
I am satisfied on the basis of inspections carried out by me or by other employees of the City of Winnipeg who are authorized to enforce the Vacant Buildings By-law that the property continues to be in contravention of the By-law.

Sworn or affirmed before me this _____day)
)
of _____ in the year 20___ , in the) _____
City of Winnipeg in the Province of Manitoba.) Signature of Designated Employee
)
)

_____

A (Commissioner of Oaths / Notary Public)
in and for the Province of Manitoba.
My commission expires on _____.

NEW TAKING TITLE TO DERELICT BUILDINGS PROCESS PURSUANT TO THE CITY CHARTER



STEPS REQUIRED TO EXERCISE
Taking Title Without Compensation Provision
VACANT AND DERELICT BUILDINGS BY-LAW

PRECONDITIONS: The registered owner of property must have been convicted under the Vacant and Derelict Buildings By-law. (Typically, this will require a conviction for a violation of the securing provisions or Schedule "A" or for failing to comply with an Order issued under the By-law. It will not typically involve a conviction for failing to obtain a boarded building permit.)

STEP 1: **Enforcement officer executes a Statutory Declaration** in the form set out as Schedule "C" to the By-law. Note: Enforcement officers under this By-law are PP&D or WFPS inspectors. *(By-law s. 19(1), Charter s. 190(2))*

STEP 2: **Designated employee issues Preliminary Derelict Building Order** in the form set out as Schedule "D" to the By-law. (Note: Although the CAO, the Chief of the WFPS and the Director of PP&D are all designated employees, only the Director of PP&D will issue Preliminary Derelict Building Orders, at least initially.) *(By-law s. 19(1), Charter s. 190(3))*

STEP 3: **Registration of Preliminary Derelict Building Order.** Preliminary Derelict Building Order must be promptly registered by way of caveat at Winnipeg Land Titles Office (WLTO). Legal Services will assist with this. *(By-law s. 19(2), Charter s. 192)*

STEP 4: **Service of Preliminary Derelict Building Order**. Preliminary Derelict Building Order is served on the registered owner and every person who appears from the records in WLTO to have an interest in the property. Personal service is required unless a substitutional service order made by the district registrar at WLTO permits otherwise. *(By-law s. 19(2), Charter s. 192(1)(b))*

STEP 5: **Appeal period and compliance period.**

- Any person served with the Preliminary Derelict Building Order is entitled to **appeal** the Preliminary Derelict Building Order to the Standing Policy Committee on Property and Development. The appeal must be in writing and filed with the City Clerk within **31 days** of the person having been served. *(By-law s. 19(3), Charter s. 191(3)(a)(iii) and (iv))*
- Any person served with the Preliminary Derelict Building Order has **60 days** after being served to bring the property into **compliance** with the Vacant and Derelict Buildings By-law. *(By-law Sch. D, Charter s. 191(3)(a)(ii))*

STEP 6: **"Satisfactory plan for redeveloping the property" is prepared.** The legislation is not clear what constitutes a "satisfactory plan" – presumably a plan that is acceptable to the SPC on P&D. **Note**: this step could take place after Step 7 or Step 8. *(By-law s. 20(3), Charter s. 193(3))*

STEP 7: **Designated employee applies for Derelict Building Certificate** to the Standing Policy Committee on Property and Development. Note: this step can only be taken:

- 60 days after the Preliminary Derelict Building Order has been served on everyone with an interest in the property;
- if the property has not been brought into compliance; and
- if no appeal has been made or, where an appeal has been made, the appeal has upheld the Preliminary Derelict Building Order or has varied the Order but the varied Order has not been complied with. *(By-law s. 20(1), Charter s. 193(1))*

STEP 8: **Notice of application served on registered owner** in accordance with s. 117 of *The City of Winnipeg Charter*. Personal service is ideal but service can also be accomplished by sending it by registered mail or delivering it to the address maintained by the Taxation Branch for sending the tax bill in respect of the vacant building. The decision by the SPC on P&D (next step) can only be made 14 days after the owner is served *(By-law s. 20(2), Charter s. 114)*

STEP 9: **Standing Policy Committee on P&D issues Derelict Building Certificate.** This is permitted only if the Committee receives evidence that the property continues to be derelict and if there is a satisfactory plan for redeveloping the property (see Step 6). *(By-law s. 20(3), Charter s. 193(3))*

STEP 10: **Derelict Building Certificate is registered at WLTO.** This must be done "promptly". Legal Services will assist in this. *(Charter s. 193(4))*

STEP 11: **City applies for title to property.** This can only be done between 30 and 120 days following the registration of the Derelict Building Certificate. If the City fails to act within this time frame, the Derelict Building Certificate is void. *(Charter s. 195)*

STEP 12: **City notifies the registered owner and everyone who appears to have an interest in the property** that an application to take title has been made. The Notification must allow the recipients a further 90 days to bring the property into compliance and therefore nullify the process. Notification must be by way of personal service or substitutional service as ordered by the WLTO Registrar. *(Charter s. 196)*

STEP 13: **City provides evidence to the WLTO** that service has been accomplished and that, 90 days after service the property is still not in compliance.

STEP 14: **Title issues to the City.**

TAKING TITLE TO DERELICT BUILDINGS PURSUANT TO THE CITY CHARTER

